

#### **IC 5-1.4-7**

##### **Chapter 7. Default of the Bank**

#### **IC 5-1.4-7-1**

##### **Achievement of purpose of article without jeopardizing holders of bonds or notes**

Sec. 1. In order to:

- (1) carry out its purpose under this article by purchasing securities of qualified entities and by receipt of its income from service charges and from payments of interest on and the maturing principal of securities purchased and held by it; and
- (2) produce revenues or income to the bank sufficient at all times to meet its costs and expenses of operation under this article and to pay the principal of and interest on its outstanding bonds and notes when due;

the bank must at all times, and to the greatest extent possible, plan to issue its bonds and notes and purchase securities of qualified entities so that the purpose is achieved without in any way jeopardizing any rights of the holders of bonds or notes of the bank or adversely affecting other matters under this article.

*As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.19.*

#### **IC 5-1.4-7-2**

##### **Default; appointment of trustee to represent holders of bonds or notes**

Sec. 2. If the bank:

- (1) defaults in the payment of principal or interest on an issue of notes or bonds after they become due, whether at maturity or upon call for redemption; or
  - (2) fails or refuses to comply with this article or defaults in an agreement made with the holders of an issue of notes or bonds;
- and there is no trustee under a trust agreement, then the holders of twenty-five percent (25%) in the aggregate principal amount of the outstanding notes or bonds of that issue, by instrument filed in the office of the clerk of the county and executed in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of those notes or bonds for the purposes provided in this article.

*As added by P.L.42-1985, SEC.1.*

#### **IC 5-1.4-7-3**

##### **Trustee; duties; powers; venue; notice**

Sec. 3. (a) A trustee appointed under section 2 of this chapter shall, in the trustee's name, upon written request of the holders of twenty-five percent (25%) in principal amount of the outstanding notes or bonds:

- (1) by civil action enforce all rights of the holders, including the right to require the bank to:
  - (A) collect rates, charges, and other fees and to collect interest and principal payments on securities held by it adequate to carry out an agreement as to, or pledge of, the

rates, charges, and other fees and of the interest and principal payments; and

(B) carry out any other agreements with the holders of the notes or bonds and to perform its duties under this article;

(2) bring a civil action upon the notes or bonds;

(3) by civil action require the bank to account as if it were the trustee of an express trust for the holders of the notes or bonds;

(4) by civil action enjoin anything that may be unlawful or in violation of the rights of the holders of the notes or bonds; and

(5) declare all the notes or bonds due and payable, and if all defaults are made good, then with the consent of the holders of twenty-five percent (25%) of the principal amount of the outstanding notes or bonds, annul the declaration and its consequences.

(b) The trustee also has all the powers necessary for the exercise of functions specifically set out or incident to the general representation of holders in the enforcement and protection of their rights.

(c) The venue of any suit, action, or proceeding brought by the trustee on behalf of the holders shall be laid in the county in which the bank is located.

(d) Before declaring the principal of notes or bonds due and payable, the trustee must first give not less than thirty (30) days notice in writing to the chairman of the board and the board's attorney.

*As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.20.*